



29 DEC 2005

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In re Application of
LAMMARS, Allan *et al*
Application No.: 10/509,669
PCT No.: PCT/US03/09485
Int. Filing Date: 27 March 2003
Priority Date: 27 March 2002
Attorney Docket No.: AG03-004C-US
For: GENERATION OF PLANTS WITH
IMPROVED PATHOGEN RESISTANCE

DECISION

This decision is in response to applicants' "Response to Communication" filed on 17 November 2005.

BACKGROUND

On 20 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a \$130.00 surcharge fee was required.

On 22 August 2005, applicants filed a response which included an executed declaration (6 pages) and the \$130.00 surcharge fee.

On 13 October 2005, a decision indicating that the declaration filed 22 August 2005 was not in compliance with 37 CFR 1.497(a) and (b) was mailed. The declaration submitted was only a composite declaration. It was also noted that the declaration listed the name of the fourth inventor differently than the name is recorded on the international publication. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905, whichever is longer.

On 17 November 2005, the subject response was filed which was accompanied by, *inter alia*, a declaration signed by five of the seven inventors.

DISCUSSION

In response to the decision mailed 13 October 2005, applicants' declare that "[t]he legal name of the fourth inventor is Tina M. Harwell. The listing of Tina M.

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Harweel is a typographical error by the USPTO." Applicants included a copy of the Demand filed 07 October 2003 listing the inventor's last name as "Harwell."

Section 201.03 of the MPEP discusses these types of errors and states, in part:

Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration"

DECISION

Applicants' explanation meets the requirements of the MPEP and is sufficient to explain the name difference between the declaration and the international publication.

However, the declaration submitted was not executed by all of the named inventors. As such, the declaration is not in compliance with 37 CFR 1.497(a) and (b).

Applicants were required to submit a declaration in compliance of 37 CFR 1.497(a) and (b) within one month from the mail date of the 13 October 2005 decision, or within the time remaining in the Form PCT/DO/EO/905, whichever is longer. Both of these time periods have expired.

Accordingly, the above-captioned application is hereby **ABANDONED**.

If reconsideration on the merits of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(a) or (b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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